

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN L. HENDRICKSON,

Plaintiff,

v.

FRANK E. CUTHBERTSON, *et al.*

Defendants.

Case No. 07-5692 BHS/KLS

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

Before the Court is Plaintiff's motion for appointment of counsel. (Dkt. # 9). Having reviewed the motion and balance of the record, the Court finds for the reasons stated below that Plaintiff's motions should be denied.

I. DISCUSSION

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* and has not
2 demonstrated that the issues involved in this case are complex or that he has had any difficulties in
3 expressing them. (Dkt. # 4, 5). Plaintiff has not demonstrated that there is a likelihood of success
4 on the merits of his claims.

5 Accordingly, the Court finds that counsel is not necessary in this case and Plaintiff's motion
6 to appoint counsel (Dkt. # 9) is **DENIED**.

7 The Clerk is directed to send copies of this Order to Plaintiff and counsel for Defendants.

8 DATED this 4th day of March, 2008.

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12 Karen L. Strombom
13 United States Magistrate Judge
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